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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,359	04/13/2005	Kim Hansen	US020624 US	6512

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS  
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EXAMINER
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KAHELIN, MICHAEL WILLIAM

ART UNIT	PAPER NUMBER
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3762

MAIL DATE	DELIVERY MODE
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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/531,359	<b>Applicant(s)</b> HANSEN ET AL.	
	<b>Examiner</b> MICHAEL KAHRELIN	<b>Art Unit</b> 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20050413</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to under 37 CFR 1.83(a) because they fail to show a *labeled* representation of the invention as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, “a liner” is inferentially included, but further limited by claims 4 and 7, rendering it unclear whether this element is actually part of the claimed invention. It is suggested to positively recite the element before further limiting it. The Examiner has considered the element to be functionally recited, thus not a positively recited element of the invention. Appropriate correction is required.
4. Claim 5's limitation of “until the plurality of pads are handled” is unclear because claim 1 indicates that the pads are already being handled (“when the plurality of pads are being handled”) when the initial prompt is issued.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 2, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Freeman (US 6,201,992, hereinafter “Freeman '992”).

7. In regards to claim 1, Freeman '992 discloses a defibrillator having pads (Figs. 4A-D), a memory (48 and 56), display (40), and a processor to prompt an operator to view a pad placement picture when the pads are being handled (Figs. 4A-D). Further, the processor is capable of displaying the picture whether the pads have or have not been removed from a liner.

8. In regards to claim 2, the processor analyzes an impedance signal (col. 6, line 56).

9. In regards to claim 10, the processor prompts the user to remove all clothing from the patient's chest (Fig. 4A) because the visual prompt shows a bare chest.

### ***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claim 12 is rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Freeman '992. Freeman '992 discloses the essential features of the claimed invention including a prompt to remove any protective cover and take out adhesive pads (Fig. 4A) because the pads are depicted as removed from any protective covering. Alternatively, Freeman '992 does not expressly disclose prompting an operator to remove a protective cover and take out adhesive pads. It is well known in the defibrillator arts to prompt users to remove protective coverings from pads before use to ensure that the pads are placed in a state capable of conducting the defibrillation pulse. Therefore, it would have been obvious to one having ordinary skill in art at the time the invention was made to prompt users to remove a protective covering from the pads before use to provide the predictable results of ensuring that the pads are placed in a state capable of conducting the defibrillation pulse.

13. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman '992. Freeman '992 discloses the essential features of the claimed invention, including prompting a user to remove clothing from a patient's chest, but does not disclose prompting a user to cut clothing from the patient's chest if necessary. It is well known in the art to remove clothing by cutting to provide the predictable results of accessing the patient's skin without having to move the patient. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was

made to modify Freeman '992's invention by prompting a user to cut clothing from the patient's chest if necessary to provide the predictable results of accessing the patient's skin without having to move the patient.

14. Claims 3-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman '992 in view of Freeman (US 7,310,553, hereinafter "Freeman '553").

Freeman discloses the essential features of the claimed invention, including an instruction to place a pad in accordance with a pad placement picture, but does not disclose issuing or not issuing a pad correction prompt depending on whether an impedance signal is erratic, repeating a prompt based on a pad storage compartment, repeating a prompt based on liner removal, or repeating a prompt based on pad placement. Freeman '553 teaches a defibrillator with a means for issuing or not issuing a pad correction prompt depending on whether an impedance signal is erratic and repeating a prompt based on conditions such as pad placement (121-122a) to provide the predictable results of ensuring that suitable electrical contact is made with the patient before shock provision. Further, it is well known in the art to repeat prompts for pre-determined amounts of time to provide the predictable results of continuously informing a user of an alert condition to allow the user to make corrections, to provide prompts based on the state of a pad storage compartment to provide the predictable results of allowing the device to instruct the user when it determines that it is in use, and prompting users to remove liners to provide the predictable result of ensuring that the user makes suitable electrical contact between the electrode and patient. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention

was made to modify Freeman '992 by providing a means for issuing or not issuing a pad correction prompt depending on whether an impedance signal is erratic and repeating a prompt based on conditions such as pad placement to provide the predictable results of ensuring that suitable electrical contact is made with the patient before shock provision; repeating prompts for pre-determined amounts of time to provide the predictable results of continuously informing a user of an alert condition to allow the user to make corrections; to provide prompts based on the state of a pad storage compartment to provide the predictable results of allowing the device to instruct the user when it determines that it is in use; and prompting users to remove a liner to provide the predictable result of ensuring that the user makes suitable electrical contact between the electrode and patient.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nova (US 6,697,671) is one of many teachings of issuing prompts for predetermined periods of time, Olson (US 5,645,571) is an example of providing a prompt based on pad storage compartment status, and Covey (US 7,069,074) is one of many teachings of prompting a user to remove a liner from an electrode pad.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL KAHRELIN whose telephone number is (571)272-8688. The examiner can normally be reached on M-F, 8-4.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Kahelin/  
Examiner, Art Unit 3762  
/George R Evanisko/  
Primary Examiner, Art Unit 3762